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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ROBERTO VERTHEL YI, on behalf
of himself and all others similarly
situated,

Plaintiff,

V.

PENNYMAC MORTGAGE
INVESTMENT TRUST; PNMAC
CAPITAL MANAGEMENT, LLC.

Defendants.

Case No. 2:24-cv-05028-MWF

**DEFENDANTS' REQUEST FOR
JUDICIAL NOTICE IN SUPPORT
OF THEIR MOTIONS TO
DISMISS PLAINTIFF'S
COMPLAINT**

Hearing Date: Nov. 18, 2024

Time: 10:00 a.m.

Place: Courtroom 5A

Judge: Michael W. Fitzgerald

1 In support of their concurrently-filed Motions to Dismiss, Defendants PennyMac
2 Mortgage Investment Trust and PNMAC Capital Management, LLC (collectively,
3 “Defendants”) respectfully request that the Court consider three documents: the Articles
4 Supplementary for each of PennyMac Mortgage Investment Trust’s Series A and Series
5 Preferred Shares, and PennyMac Mortgage Investment Trust’s operative Declaration
6 of Trust, all of which are as filed with the State of Maryland. A court may take judicial
7 notice of documents outside the pleadings if: (1) the complaint refers to such documents;
8 (2) the documents are “central to the plaintiff’s claim”; and (3) “no party questions the
9 authenticity” of the copies attached to the Rule 12(b)(6) motion. *United States v.*
10 *Corinthian Colleges*, 655 F.3d 984, 999 (9th Cir. 2011); *see also Branch v. Tunnell*, 14
11 F.3d 449, 454 (9th Cir. 1994) (“[D]ocuments whose contents are alleged in a complaint
12 and whose authenticity no party questions, but which are not physically attached to the
13 pleading, may be considered in ruling on a Rule 12(b)(6) motion to dismiss”).
14 Additionally, “[c]ourts may take judicial notice of public records and government
15 documents available from reliable sources on the Internet such as websites run by
16 governmental agencies.” *Maxon v. Fuller Theological Seminary*, 549 F. Supp. 3d 1116,
17 1122 (C.D. Cal. 2020) (citation, internal quotation marks, and alteration omitted).

18 The attached documents are appropriate for judicial notice. The Complaint
19 discusses the terms of the Preferred Shares contained in each Articles Supplementary,
20 which “forms the basis of [Plaintiff’s] claim” that PennyMac violated the LIBOR Act
21 and California’s Unfair Competition Law. *United States v. Ritchie*, 342 F.3d 903, 908
22 (9th Cir. 2003); *see, e.g.*, Compl. ¶¶ 14, 30–38, 45. These Articles Supplementary are
23 part of PennyMac’s Declaration of Trust under Maryland law. *See Md. Code Ann.,*
24 *Corps. & Ass’ns § 8-101(b)*. Courts addressing motions to dismiss routinely notice
25 organizational governance documents from a state’s website. *See Risto v. Screen Actors*
26 *Guild - Am. Fed’n of Television & Radio Artists*, 2018 WL 7016345, at *5 (C.D. Cal.
27 Nov. 6, 2018) (taking judicial notice of a defendant’s “Agreement and Declaration of
28 Trust” because it was referenced in the plaintiff’s complaint); *Verduzco v. St. Mary’s*

1 *High Sch.*, 2024 WL 3088467, at *3 (E.D. Cal. June 21, 2024) (taking notice of
2 defendant's articles of incorporation and its amended articles of incorporation filed with
3 the state).

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5 | Dated: August 20, 2024

Respectfully submitted,

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/s/ Matthew Donald Umhofer

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